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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,658	11/25/2003	Ryoichi Togashi	03714/LH	8803

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
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EXAMINER

PAHNG, JASON Y

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,658

Applicant(s)

TOGASHI ET AL.

Examiner

Jason Y. Pahng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7,9,11,13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 5,9 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 15 is/are rejected.
- 7) ☒ Claim(s) 3,7 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 27, 2006 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kaya (US 5,765,769).

With regard to claim 1, Kaya discloses a jaw crusher including:

1. a swing jaw (11) which swings relative to a fixed jaw (1);
2. a reaction force receiver mechanism (22, 21, 24, 3);
3. a reaction force mechanism comprising a toggle plate (22) and a toggle plate support member (lower end support member of 21);

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4. the toggle plate (22) is angled upward toward the swing jaw (11) in Figure 2;
5. the toggle plate (22) includes a first end contacting the swing jaw (11) and a second end contacting a toggle plate support member (lower end support member of 21) in Figure 2;
6. a toggle plate holder mechanism comprising a link member (21) that holds the toggle plate (22) between the swing jaw (11) and the toggle plate support member (lower end support member of 21);
7. the toggle plate holder mechanism also comprising a biasing portion (24) which is coupled to the toggle plate support member (lower end support member of 21) and which biases the swing jaw (11) and the toggle plate support member (lower end support member of 21) to the toggle plate (22);
and
8. wherein the reaction force receiver mechanism (22, 21, 24, 3) comprises an outlet clearance adjustment mechanism (3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaya (US 5,765,769) in view of Togashi et al. (US 2002/0036246). Claim 15 calls for a self-

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propelled crushing machine. In a closely related art, Togashi ('246) discloses a self-propelled crushing machine (Figure 7) in order to mount a jaw crusher. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Kaya with a self-propelled crushing machine in order to mount his jaw crusher, as taught by Togashi ('246).

Allowable Subject Matter

Claims 3, 7, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed March 27, 2006 have been fully considered but they are not persuasive.

Applicant argues that Kaya's element (21) cannot be both the link member and the toggle plate support member at the same time. Examiner does not agree with this assertion. However, this assertion is moot because the rejection of claim 1 does not rely on Kaya's element (21) to be both the link member and the toggle plate support member at the same time. Kaya's toggle plate support member is the small structure at the lower end of the element (21), and Kaya's link member is most of the element (21) excluding the small structure at the lower end of the element (21).

With regard to the biasing portion, Applicant argues that Kaya's biasing portion (24) does not provide bias because Kaya's biasing portion (24) merely provides support to the element (21). However, providing bias and providing support is not mutually exclusive. Kaya's biasing portion (24) provides bias and support to the swing jaw (11) and the toggle plate support member (lower end support member of 21) to the toggle plate (22).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-Thursday.

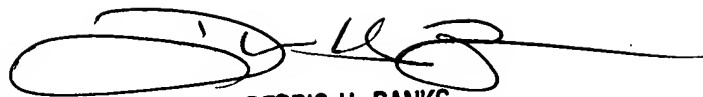
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JYP

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DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700